

**To:** David E. Dearing[david@dearinglawfirm.com]  
**From:** Pellegrini, Janet  
**Sent:** Wed 9/18/2013 9:24:20 PM  
**Subject:** RE: FW: Ruling attached

Then its even more impressive that the ruling supported Sierra Club on Count 3  
 I saw the NPDES discharge outfall 016R, you were pursuing, noted within the ruling document  
 Thanks much

-----Original Message-----

From: David E. Dearing [mailto:david@dearinglawfirm.com]  
 Sent: Wednesday, September 18, 2013 4:10 PM  
 To: Pellegrini, Janet  
 Subject: Re: FW: Ruling attached

Thank you. This is very interesting. Judge Gibbs almost never rules against IDEM.

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On Wed, 18 Sep 2013 20:58:56 +0000, "Pellegrini, Janet"  
 <pellegrini.janet@epa.gov> wrote:

Attachment contains IN ruling on case

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> State judge rules major Ind. mine lacks proper water permit Jeremy P.

> Jacobs, E&E reporter

>

> Published: Wednesday, September 18, 2013 Indiana violated the Clean

> Water Act by allowing one of the largest surface coal mines in the

> country to operate without a thorough review of how it affects nearby

> waterways, a state judge ruled this week.

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> Public health advocates including the Sierra Club and Environmental

> Law & Policy Center brought the lawsuit challenging the Indiana

> Department of Environmental Management's (IDEM) water permit for the

> Bear Run coal mine in Sullivan County.

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> They claimed IDEM did not perform the requisite anti-degradation

> review, which ensures there are adequate protections in place for

> local waterways.

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> Indiana Environmental Law Judge Catherine Gibbs agreed and sent the

> permit back to IDEM to conduct a proper review.

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> The Bear Run coal mine, owned by Peabody Energy Corp., produces

> between 8 million and 12 million tons of coal annually.

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> "It was Peabody's burden to make an affirmative demonstration that

> degradation of receiving waters was justified by economic or social  
> factors and would not cause violations of water quality," Gibbs wrote.  
> "Peabody failed to do so."  
>  
> Jodi Perras of Sierra Club's Beyond Coal campaign said the ruling  
> highlights shortcomings in Indiana's environmental reviews.  
>  
> "If you're digging the largest surface mine east of the Mississippi  
> River, Judge Gibbs recognizes that you must protect local waterways  
> for the use of residents and wildlife," Perras said. "It's time for  
> IDEM to start doing its job and protect the waters of Indiana from  
> coal mine pollution, as the Clean Water Act requires."  
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